

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

AUG 28 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

ANGREJ SINGH,

Petitioner,

v.

MICHAEL B. MUKASEY, ** Attorney
General,

Respondent.

No. 05-73034

Agency No. A71-854-089

MEMORANDUM *

On Petition for Review of an Order of the
Board of Immigration Appeals

Argued and Submitted July 9, 2008
Seattle, Washington

Before: CLIFTON and N.R. SMITH, Circuit Judges, and SANDOVAL ***, District
Judge.

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** Michael B. Mukasey is substituted for his predecessor, Alberto R.
Gonzales, as Attorney General, pursuant to Fed. R. App. P. 43(c)(2).

*** The Honorable Brian E. Sandoval, United States District Judge for
the District of Nevada, sitting by designation.

Angrej Singh, a native and citizen of India, petitions for review of the Board of Immigration Appeals' summary affirmance of an Immigration Judge's ("IJ") denial of his motion to reopen exclusion proceedings conducted *in absentia*. We have jurisdiction under 8 U.S.C. § 1105a.¹

The IJ did not abuse his discretion by denying Singh's motion to reopen because Singh's former counsel received proper notice of the exclusion hearing held on September 9, 1996. *See* 8 U.S.C. § 1252b(a)(2)(A); *see also Garcia v. INS*, 222 F.3d 1208, 1209 (9th Cir. 2000) (per curiam) (notice to attorney of record constitutes notice to the petitioner).

The 1994 charging document was not facially deficient because it gave Singh sufficient notice of the grounds of his inadmissibility. *See Lazaro v. Mukasey*, 527 F.3d 977, 980 (9th Cir. 2008). At oral argument, Singh abandoned his ineffective assistance of counsel claim, conceding that he had not established such a claim. Therefore, we need not reach the issue here.

PETITION FOR REVIEW DENIED.

¹ The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA") has replaced Section 1105a with a new judicial review provision codified at 8 U.S.C. § 1252. However, the new provision does not apply to petitions such as Singh's, whose deportation proceedings commenced before April 1, 1997. *See IIRIRA* § 309(c)(1); *see also Valeriano v. Gonzales*, 474 F.3d 669, 672 (9th Cir. 2007).